

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

DUANE J. RUGGIER, II,

Plaintiff,

v.

CIVIL ACTION NO. 3:13-26640

WAL-MART STORES EAST, LP,  
a limited partnership,

Defendant.

**ORDER**

Pending before the Court is Defendant's motion to dismiss (ECF No. 5). Since the time that the motion to dismiss was filed, Plaintiff filed an amended complaint within the timeframe for amendment as of right explained in Federal Rule of Civil Procedure 15. Defendant requests that the motion to dismiss be denied as moot in light of the amended complaint. Accordingly, the Court **DENIES as moot** Defendant's motion to dismiss (ECF No. 5).

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: December 6, 2013

  
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ROBERT C. CHAMBERS, CHIEF JUDGE